UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/2001/SR.65
20 November 2001

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-seventh session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 65th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 15 November 2001, at 11 a.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Algeria

* No summary record was prepared for the first part (closed) of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.01-46038 (E) 191101 201101

The public part of the meeting was called to order at 11 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Algeria (E/1990/6/Add.26; E/C.12/Q/ALG/1; written replies to the list of issues, prepared by the Government of Algeria (document without a symbol, in French only))

1. At the invitation of the Chairperson, the members of the delegation of Algeria took places at the Committee table.

2. The CHAIRPERSON, after expressing disappointment that the State party appeared not to have submitted written replies to the Committee's list of issues, invited the head of the Algerian delegation to make an introductory statement.

3. Mr. DEMBRI (Algeria) began by apologizing for the late submission of the written replies to the list of issues, which had been prepared and would be distributed in the course of the meeting. Algeria attached great importance to promoting and protecting the rights enshrined in the Covenant, and was determined to maintain and improve its cooperation with the Committee. Algeria's social identity was rich and diverse, drawing on the Arab, Amazigh and Islamic cultural traditions. Since independence, the actions of the Algerian Government had been directed at the strategic objective of creating the conditions for the personal fulfilment and emancipation of all its citizens - a goal that continued to be pursued despite the economic, political and institutional changes that had taken place since the early 1990s against a background of bloody terrorism.

4. The fact that Algeria had simultaneously ratified the two international human rights Covenants demonstrated its commitment to the principles of the universality, indivisibility, interdependence and non-selectivity of those rights. That commitment was reflected in the gradual realization of economic, social and cultural rights and the parallel development of institutions and instruments that derived their strength and legitimacy from the sovereign will of the people. Thus, since 1962 the bulk of the State budget had been allocated to education, ensuring the right of all children to go to school. Anyone unable to attend school could study for the national examinations through the National Centre for Distance Learning. A nationwide adult education and literacy programme had also been introduced.

5. For the last three decades, Algeria had promoted a major policy to provide free medicine for all, without distinction, in order to guarantee the right to health. However, Algeria's health system, which was one of the best in Africa, had suffered some setbacks as a result of the structural adjustment programme implemented in the mid-1990s. Algeria had therefore introduced a social safety net to provide help to those who had lost their jobs and to ensure that the basic needs of the population were met.

6. Algeria had also made a commitment to protect its cultural heritage by promoting its regional languages. In 1995, the Office of the High Commissioner for Amazighité (Berbers) had been established, a representative of which now had a seat on the National Human Rights Consultative Commission. The regional languages of Algeria were largely oral; efforts were being made to unify their written forms and to develop scientific teaching methods. The Universities of Tizi Ouzou and Bejaïa provided teaching and carried out research in that field. Under the 1996 Constitution the Amazigh people were considered a basic component of the national identity.

7. Since the submission of Algeria's initial report (E/1990/5/Add.22), the principal mechanisms for promoting and protecting human rights had been strengthened and Algerian legislation had been, or was in the process of being, brought into conformity with Algeria's international obligations. Various commissions empowered to make conclusions and recommendations had been created to assist in overhauling the country's institutions. As civil peace was essential if human rights in general, and economic, social and cultural rights in particular, were to be enjoyed, a Civil Concord policy had been introduced in 1999, to pave the way for a major plan to stimulate economic growth, with a budget of US$ 7 billion.

8. Algeria's second periodic report bore witness to the process of national renewal that was under way, and to the authorities' efforts to create a modern, forward-looking society in which all its citizens could prosper. His delegation looked forward to a productive dialogue with Committee members.

9. The CHAIRPERSON invited Committee members to respond to the delegation's opening remarks.

10. Mr. SADI said that the size of the delegation and its eminent composition indicated that Algeria took its role in the dialogue very seriously. However, in order to meet its obligations under the Covenant, the Government had to ensure that peace and security prevailed in the territory. He expressed his concern about the state of insecurity in Algeria: atrocities against women and children had been taking place for many years, yet, to the best of his knowledge, the perpetrators of the violence had never been apprehended and prosecuted. He failed to understand why the Government could not stop the bloodbath.

11. A state of emergency had been declared in some parts of the country. Under article 4 of the International Covenant on Civil and Political Rights, States parties could proclaim a state of public emergency and take measures derogating from their obligations under the Covenant, provided, inter alia, that the Secretary-General of the United Nations was informed of the provisions from which they had derogated and of the reasons for the derogation. Had Algeria fulfilled that requirement?

12. Lastly, it would be interesting to know to what extent the Government had taken into account its commitments under the International Covenant on Economic, Social and Cultural Rights when it had entered into a dialogue with the World Bank and the International Monetary Fund (IMF) regarding the introduction of a market economy and privatization measures. Had the World Bank and IMF been responsive to any submissions Algeria might have made

regarding its obligations under the Covenant? Privatization was a healthy phenomenon, but such measures must be implemented with due consideration for Algeria's international treaty obligations.

13. Mr. WIMER ZAMBRANO said that he had recently read a media report that Morocco had made a new proposal to grant limited autonomy to Western Sahara while maintaining the area under Moroccan control. What was the position of the Algerian Government on that issue? It would also be useful to receive some information about how the situation had developed.

14. Much of the violence in Algeria was linked to the issue of the Berber population in Kabylia. The Amazigh World Congress in Paris had underlined that one of the reasons for the violence was the fact that the Berber culture was being "Arabicized"; the Berber people were calling for greater autonomy and were seeking official recognition of their language, giving it the same status as Arabic. The comments made by the representative of Algeria in his introductory statement did not seem to reflect that state of affairs. The Committee needed to know the Algerian Government's position on the question of the Berbers.

15. The CHAIRPERSON asked the delegation to summarize the measures undertaken by the State party with regard to the Committee's suggestions and recommendations on the initial report of Algeria, information requested in No. 1 of the list of issues.

16. Mr. DEMBRI (Algeria) said that detailed written replies to issue No. 1 had been prepared and would be distributed shortly. The recommendations made by the Committee after consideration of the initial report had been examined by a council of ministers which had mandated various ministries to act on the recommendations or to make the necessary legislative amendments. The Committee's recommendations had also been disseminated in the press, to raise public awareness of its opinions concerning the development of economic, social and cultural rights in Algeria. Algeria had thus acted in accordance with its obligations under the Covenant.

17. The CHAIRPERSON said that the Committee had been expecting to hear full details of measures taken by the Algerian Government in response to the very specific suggestions and recommendations provided by the Committee. It was to be hoped that those details would be provided in the written replies. She asked the delegation to respond to the questions put by Mr. Sadi and Mr. Wimer Zambrano, before addressing the remaining issues (Nos. 2-5) under the heading "General information".

18. Mr. DEMBRI (Algeria), responding to the first issue raised by Mr. Sadi, said it was important to understand the genesis of terrorism in Algeria. In the 1970s, a mass mobilization to liberate Afghanistan from atheistic communism had attracted recruits from throughout Muslim Arab society, often unbeknown to the Governments concerned. When Afghanistan had been liberated from the Soviet yoke in 1990, the combatants had returned to societies such as Algeria which were not theocratic and which promoted democratic, egalitarian values they considered to be impious. Indeed, when terrorist acts first began to occur in Algeria, the groups responsible had been referred to as "Afghan Algerians".

19. The Algerian Government had appealed to the international community for solidarity and assistance and had volunteered information on the emerging terrorist networks; but its pleas had gone unheeded, as the phenomenon had been considered a purely local rather than a transnational problem. Had those terrorist groups not been part of an extensive and well-organized international terrorist network, they might have been more quickly quashed. Yet, despite having to cope with the problem without international assistance, with a conscript army as its only resource and 8,000 kilometres of permeable borders to defend, over 10 years the Government had largely succeeded in bringing the violence under control; and its new Civil Concord policy had brought about the capitulation of the Islamic Salvation Front.

20. Paradoxically, in the wake of the events of 11 September 2001, the United States and other Governments had asked Algeria to contribute to their knowledge of Islamic fundamentalism, and in particular of terrorism in the guise of religious faith. The Algerian Government now felt vindicated in its 1994 decision to request international solidarity to combat terrorism. During its fight against terrorism, the Algerian Government had not derogated from any of the provisions of the Covenant. It had notified the Secretary-General of the United Nations of its declaration of a state of emergency once yearly, in accordance with article 4 of the International Covenant on Civil and Political Rights. A curfew and a search law had been imposed, allowing the authorities to conduct searches at any hour of the day or night. Two years previously the curfew had been lifted; only the search law remained in force. The state of emergency had thus entailed no significant restrictions on the exercise of individual and collective rights and liberties. On the contrary, elections had been held, and economic and political reforms had been carried out without any infringement of human rights law.

21. Turning to the matter of the international financial institutions, he said that in 1994 Algeria had been unable to service its debt, and had entered into a voluntary agreement with IMF and the World Bank to implement a structural adjustment programme that would in its view, be sustainable by the Algerian population. Agricultural property had been returned to its original owners and a programme of real cost pricing had been introduced. The privatization of the public sector and the withdrawal of subsidies had brought about job losses that had been dealt with in the framework of the social safety net. The programme had not, however, in any way contravened the provisions of the Covenant, which had been strictly respected having regard to the available resources.

22. On the question of Western Sahara, he said that pursuant to the principles set forth in United Nations General Assembly resolution 1514 (XV) of 14 December 1960, Spain, the colonial occupying Power, was obliged to offer the people of that country a referendum on self-determination. The Government of Spain had conducted a full census in 1974; following the death of General Franco in 1975, Spanish institutions had undergone a period of flux, during which Morocco and Mauritania had divided the territory of Western Sahara between them. Algeria had vigorously protested against that predatory takeover of territory belonging to peoples embarking on a process of decolonialization. The problem had been considered by the Organization of African Unity (OAU) which had recognized the legitimacy of the struggle of the Saharan people and had admitted Western Sahara into that organization as a State.

23. In the meantime, the Saharans had established a political movement, and had conducted a war of liberation. OAU had drawn up a United Nations-administered settlement plan, to allow

the various parties concerned, including Algeria, to find an appropriate solution in accordance with the right to self-determination. A referendum was to be held, to permit the people of Western Sahara to choose either independence or incorporation into Morocco. Morocco, however, had worked to change the demographic base for the referendum in its favour. Meanwhile, the people of Western Sahara had rejected the autonomy proposal alluded to by Mr. Wimer Zambrano. The Algerian Government, as an interested party, simply wished for the settlement plan and the referendum to be respected on their original terms. If, however, the Frente Polisario and Morocco concluded an agreement among themselves, Algeria would not object.

24. Turning to the question of the Berbers, he said that the terms Berberité and Amazighité were often confused. The ancient Greeks and Romans had called any peoples who spoke an unintelligible language "barbarians", and the whole of northern Africa had later come to be known as "Barbary". Amazigh, on the other hand, was an indigenous Algerian word which meant "free man"; a name that had been applied to Algerians because they repelled all invasions and incursions into their territory. That term did not refer to genetic characteristics such as complexion or eye colour, but principally to a political programme whose aim was the pursuit of independence and liberty. Algeria's original population was made up of Amazighs, but the culture had absorbed foreign influences, and Algerians therefore spoke French and Arabic as well as Amazigh.

25. Any approach to the question of language must be based on the realization that there were not one but seven regional tongues, all of them largely oral. The task of developing a written form of the language, based on a common root and perhaps adopting the script of the Romance languages, had been begun with the establishment of the Office of the High Commissioner for Amazighité (Berbers); but the problems, including the need to adapt it to modern requirements such as use in science and technology, had not yet been solved.

Articles 1-3

26. Ms. BARAHONA-RIERA, referring to article 3, said that, according to the information provided, the Algerian Constitution guaranteed gender equality. Nevertheless, some of the information before the Committee pointed to continuing discrimination against women, even in legislation and regulations adopted after the Constitution's promulgation; the Family Code, in particular, seemed retrograde. In many matters, such as marital conditions, polygamy, inheritance, the right to property protection and the status of children born out of wedlock, some of women's most basic rights were still being violated. She wished to know what remedies the Government envisaged, for example in education policy and other awareness-raising efforts, whether any bodies were being instituted for such purposes, and if so what their objectives and funding arrangements would be. She also wished to know whether the Government intended to amend the Family Code.

27. Mr. MARCHAN ROMERO referred to the information provided in Algeria's second periodic report (E/1990/6/Add.26) relating to judicial machinery. As the Committee had been told that the Covenant's provisions could be invoked in the Algerian courts, he wondered whether any such cases had arisen.

28. Mr. RIEDEL noted that, according to the delegation's written replies to the list of issues, which had now been circulated, Amazighité (Berbers) had been recognized in the 1996 Constitution as a basic component of the national identity. He wondered what that meant in effect, particularly since a number of non-governmental organizations (NGOs) continued to agitate for official status for the Amazigh (Berger) language. According to the final paragraph of the written reply to issue No. 7, the problem of institutionalizing the language would be solved on the occasion of the next amendment to the Constitution announced by the President. He would be interested to learn when that was to take place, for the language question was important not only in regard to education but also in administration and the courts.

29. Mr. MALINVERNI noted that articles 27 and 42 of the Algerian Constitution respectively guaranteed equality and non-discrimination; he wondered whether there was any incompatibility between those provisions and articles 2 and 3, to which certain NGOs had drawn attention, and which declared respectively that Islam was the State religion and Arabic the official language. He also wondered whether the recently announced intention to amend the Constitution would result in Amazigh (Berber) acquiring the status of an official, rather than simply a national, language. The Committee had been informed that the amendment would be the subject of a national referendum; since, however, the Amazigh were a minority, he would like to know what provision had been made in the event of rejection, by majority vote, of official status for that language. It had been stressed that Amazigh was an oral language; but the reply cited by Mr. Riedel referred to a number of educational and training measures, including experimental classes and the use of that language in technical and vocational training. He was curious to know how such training could be conducted using a language that had no written form. Lastly, he would be glad to have information about economic conditions in places where the Amazigh people lived, since the impression was that the areas in question were depressed and suffered from low investment.

30. Mr. KOUZNETSOV said he was interested to learn that an Office of the High Commissioner for Amazighité (Berbers) had been established; but would be much more interested in learning more about the current situation of that people and what, in terms of actual measures, had been done on their behalf.

31. Mr. TEXIER said that he appreciated the grave difficulties the Algerian authorities had been facing for many years. On a general topic, he noted that the delegation's reply to issue No. 3, as to whether there was any case law on the application of the Covenant, stated that no complaints of that nature had been brought before the courts. If that were so, there was perhaps a need for greater awareness of the Covenant's provisions among certain sectors of society, not least the judiciary - a situation the Committee had noted in respect of several States parties.

32. He was puzzled by the claim that the Amazigh (Berber) issue was principally a political one - a claim which, if correct, would place the matter beyond the Committee's mandate - and by the fact that the delegation's assertions on behalf of the Amazigh people seemed somewhat negated by provisions of the Constitution such as article 3, to the effect that Arabic was the official language, and article 2, which stated that Islam was the State religion; he had always understood Algeria to be a secular society.

33. Since the Kabylia region had long suffered from violence, including incidents involving alleged brutality by the forces of law and order, he suggested that measures to promote awareness and acceptance of the Amazigh culture, perhaps involving according greater autonomy to the Amazigh people, would be the best way to achieve reconciliation and an end to unrest.

34. Mr. HUNT said that paragraph 71 of the 1993 Vienna Declaration and Programme of Action had recommended that all States should prepare a national plan of action on human rights; he wondered whether Algeria had drawn up such a plan. He understood that the National Human Rights Observatory established in 1992 had been replaced in March 2001 by a new human rights commission; he wondered whether the mandate of that commission extended to economic, social and cultural rights. He also asked how it was funded and what budget it had received in its first year; and how the commission's independence was guaranteed as required by the 1991 Paris Principles.

35. The economic reform package Algeria had introduced in the mid-1990s had reduced the fiscal deficit and by 1997 the budget had been in surplus. Was there still a surplus, and if so, how large was it? Would any such surplus be used in the struggle against poverty?

36. Mr. HAMED (Algeria), responding to Ms. Barahona-Riera's question on discrimination between men and women in the areas of marriage and inheritance, said that men and women enjoyed full equality under article 28 of the Constitution, and that under article 40 of the Civil Code women exercised full legal capacity with respect to property and inheritance both before and during marriage. Algerian law recognized the separation of property as the only matrimonial regime. Algerian women administered and disposed freely of their own property.

37. As was the case in all Muslim countries, Algeria's Family Code was based essentially on, although it did not include all elements of, Shariah law. With regard to the question of women being unable to marry without the consent of the guardian, he said that the guardian could not prevent a woman marrying if it was beneficial to her, but that in any case of conflict it would be the court that took the final decision. The guardian could never compel a woman to marry against her will. There were currently no plans for revision of the Family Code, but a preliminary proposal had been made by the commission responsible for revising the Civil Code, to the effect that all legal provisions concerning the family should be incorporated into the Civil Code. A proposal had also been made to establish a family court.

38. With regard to repudiation, or unilateral divorce by the husband, there were plans to set up legal barriers to prevent the practice as currently enshrined in the Family Code, and to institute severe penalties for any abuse. In practice, when a divorce was pronounced by a judge following repudiation, compensation was always paid to the wife. Conversely, if a wife applied for divorce without presenting grounds, she, too, was obliged to pay compensation not exceeding the amount of the dowry paid by the husband at the time of the marriage.

39. The commission charged with revising the Civil Code had also proposed that in cases of matrimony the guardian's role should become a purely consultative one, with the final decision made by the woman; and that, in cases of divorce, the family home should be assigned to the wife and children.

40. Mr. DEMBRI (Algeria) concurred with Ms. Barahona-Riera that the Family Code, which dated from 1984, needed a thorough revision in order to give women greater mobility within Algerian Society. Reforms were under way and the Committee would learn from Algeria's next report how the contradictions between the Family Code and the Constitution had been reconciled

41. Ms. CHAIEB (Algeria), responding to Ms. Barahona-Riera's question regarding the care of children born outside marriage, said that the children of working women were sometimes taken into State institutions and subsequently placed with foster-families. In such cases, the law allowed the children to take the family's name, but they had no right of inheritance. Unemployed single mothers could be assisted in Ministry of National Solidarity and Social Action reception centres.

42. Mr. HAMED (Algeria), replying to Mr. Marchán Romero, said that the reason there was no case law regarding the direct application of the Covenant was that it had never been invoked. Economic, social and cultural rights, unlike civil and political rights, were collective rights under civil law. It was for the parties in any proceedings to invoke the Constitution, the law or the Covenant; it was not the judge's responsibility to do so. Judges and magistrates were, however, now being trained to be aware of the provisions of the international Covenants and conventions.

43. Ms. BOUMEGHAR (Algeria), replying to questions concerning the teaching of the Amazigh language, said that since the establishment of the Office of the High Commissioner for Amazighité in May 1995, work had been going on to introduce teaching of the Amazigh language and culture into the school curriculum, including the history syllabus, in all wilaya that requested it. Textbooks had also been prepared for use in pilot classes involving more than 72,000 children across all wilaya. The plan was to extend the programme gradually in accordance with demand and the availability of trained teachers.

44. The fact that Amazigh had originally been an oral language, had indeed led to problems in the preparation of textbooks. There were, seven dialects of Amazigh, none of which could be used as a lingua franca. Textbooks had therefore been prepared in all seven dialects and each region used the books appropriate to its region. Efforts were being made to standardize the language for secondary school teaching, but there were enormous difficulties, not least, the fact that there were three different systems for transcribing the language. Again, all three systems had been used and teachers and regions adopted those they felt most comfortable with.

45. Little research had been done on Amazigh, which meant that there was no real corpus of knowledge that could be used in curricula and textbooks. Universities were, however, beginning to introduce research programmes in that area. At the same time, in the context of educational reform, the commission responsible for curriculum development had established a specialist group to work on a new syllabus for Amazigh as a subject in its own right.

The meeting rose at 1 p.m.